



Flathead Conservation District
133 Interstate Lane, Kalispell, MT 59901
www.flatheadcd.org 406-752-4220

CALL TO ORDER & ATTENDANCE

Chair Ronald Buentemeier called the August 13, 2018, 310-Stream Permit meeting to order at 7:00 P.M. in the conference room.

Board members present:

Ronald Buentemeier, Chair; Dean Sirucek, Secretary/Treasurer; Lori Curtis, Supervisor; John Ellis, Supervisor; Mark Siderius, Supervisor; Verdell Jackson, Supervisor; being a quorum of the Board.

Board members absent: Pete Woll, Vice Chair. Absence is excused.

Also in attendance were: Dan Brosten, Associate Supervisor; Valerie Kurth, Hailey Graf and Ginger Kauffman, FCD staff; Kenny Breidinger, MFWP; Frank & Nancy Hein; Corey Shea; Susie Bouton; Scot Davis; Roger Noble; Sharlot Battin; Rod & Cathy Juno; Eric Shaw; Bill Schottelkorb, Westwood Park; Klaus & Annegret Pfeifer; Laura Katzman; Olaf Erickson; Charles Harring; Chester Powell, Winter Sports; Erica Gerber, Summit Prep School.

MINUTES

Dean Sirucek motioned "to approve the minutes of the July 23, 2018, Business meeting as presented." Verdell Jackson seconded. Motion carried unanimously.

CORRESPONDENCE

1. Email: Montana Watershed Coordination Council (MWCC) newsletter *Watershed News* www.mtwatersheds.org
2. Email: National Association of Conservation Districts (NACD) publications *NACD eResource, Forestry Notes, Conservation Clips, 2018 Summer Conservation Forum/Tour & S.E. Region Meeting* <http://www.nacdnet.org>
3. Email: Lower Musselshell CD <https://lmcdistrict.wordpress.com> is hosting two events:
 - 1) Musselshell Field Day, 8/31/2018, 10:00 A.M. at Mitch Roen's cover crop field. Head west from Melston on Hwy 12 about 5 miles, turn north on Ragged Point Road, fields are approximately 0.5 miles on both sides, follow signs.
 - 2) Lavina Field Day, 9/5/2018, 9:00 A.M. at Jim Ballards cover crop field, 275 Three Pines Road, Lavina, MT.Contact Kate Vogel 406-600-5205 kvogel@north40ag.com or Donna Pedrazzi 406-323-2103 Ext. 101 Donna.Pedrazzi@mt.nacdnet.net
4. Email: Soil & Water Conservation Districts of Montana (SWCDM) July 25, 2018 issue



of *The Montana Conservationist* <http://swcdm.org> included:

- When **wool was blended with straw for erosion control**, the following was observed: three to four times more perennial grasses; wool holds more moisture longer; wool contains nitrogen, which has a fertilizing effect; wool appears to adhere better to soil on steep embankments.

The August 8, 2018 issue of *The Montana Conservationist* included:

“Montana’s Noxious Weeds” is now available as an **electronic flipbook**. Mobile device users can download the book for free from the MSU Extension store https://store.msuextension.org/Products/Montanas-Noxious-Weeds_EB0159.aspx The flipbook can be downloaded onto computers and mobile devices, making it accessible even when Wi-Fi is unavailable.

5. Email: Montana Watershed Coordination Council (MWCC) announces the 2018 Watershed Symposium, October 10-12, at Whitefish Lake Lodge. Contact MWCC Big Sky Watershed Corps, Kierra Davis kierra@mtwatersheds.org. **Flathead CD** was noted as a sponsor.
6. Email: Whitefish Planning Board meeting, Thursday, August 16, 2018, 6:00 P.M. Whitefish City Council Chambers. <http://www.cityofwhitefish.org>
7. Email: News from Montana Fish Wildlife & Parks (FWP) - All watercraft entering Montana are required to be inspected for invasive species, including a thorough inspection of live wells, anchors and ballast systems. Boaters are asked to do their part to help protect Montana’s waters and always clean, drain, and dry their boats and equipment. <http://cleandraindry.mt.gov>
8. Email: FWP Aquatic Invasive Species newsletter:
 - (1) Montana inspectors have stopped 12 boats with invasive mussels. The boats came from Arizona, Texas, California and the Great Lakes area. Most of the boats were passing through Montana destined for Idaho, Washington and Canada.
 - (2) **Watercraft Inspection Station Numbers**
46: Inspection Stations in Montana
50,495: Boats inspected from January 1 to July 17
12: Boats with invasive mussel detected
 - (3) FWP is seeking public comment on two documents that would guide Montana’s response to the detection of invasive mussels. Public comment period ends August 13.
 - * Montana Dreissenid Mussel Rapid Response Guidelines
 - * Missouri River Containment and Quarantine Plan (MRCQP)Public comment can be submitted electronically or by mail to Fish, Wildlife & Parks, Fisheries Division, PO Box 200701, Helena, MT 59620.
 - (4) More information is available at <http://cleandraindry.mt.gov>
9. Email: **2018 Area V meeting**, September 25, Community Center, Helmville, MT. **Resolutions** must be sent to Montana Association of Conservation Districts (MACD) no later than **September 1st**.
10. Email: Petroleum CD newsletter <https://www.facebook.com/Petcocd.55>
11. Email: Clark Fork & Kootenai River Basins Council summer 2018 updates <https://mtwatersheds.org/app/clark-fork-basin-council>
12. Email: Supervisor Summit, August 29-30, Radisson Colonial Hotel, Helena. Contact LaVerne Ivie, Yellowstone CD, 406-247-4220, livie@mt.gov



13. Email: Glacier County CD newsletter. Contact Tabitha Furare, (406)-873-4292 x 101 Glaciercountycd@gmail.com
14. Email: Montana Pollutant Discharge Elimination System (MPDES) Stormwater Pollution Prevention Plan (SWPPP) Administrator and SWPPP Preparer Courses, \$475/person, Field Event \$75/person
September 5-6, 1400 S. 19th Avenue, Bozeman
September 10-11, 201 1st Avenue East, Kalispell
Contact Jennifer Lee 509-947-6583, JenL@CleanWatersATS.com, <http://www.cleanwaterats.com>
15. Email: Cascade CD announces opening for an Administrative Assistant.
Go to www.cascadecd.com for full position description or contact 406-770-4308.
Closing date August 27, 2018.
16. Email: Gallatin CD newsletter *Conservation Journal*.
To learn about their **Education & Outdoor Center** go to <http://www.gallatincd.org/home/education-and-outreach-center>, or contact Mary Hendrix, 406-282-4350, admin@gallatincd.org.
17. Email: Flathead Lakers *River to Lake Initiative News* summer issue
Over 30 volunteers planted more than 600 native trees along the Flathead River last April to expand vegetated riparian buffers. These riparian buffers provide habitat for fish and wildlife, help filter pollutants from runoff, reduce flooding and stabilize banks. MT Fish, Wildlife & Parks, Flathead Lakers, and the **Flathead Conservation District** planted an additional 2,100 trees in two other locations along the river with the help of a Montana Conservation Corps crew. <https://flatheadlakers.org>

FINANCIAL

The following bills were reviewed:

1. Byte Savvy \$55.00
2. Flathead Beacon \$528.00
3. MACDEO \$86.70
4. MACO Claims Services \$1000.00
5. MontanaSky Networks \$20.00
6. Mountain States Leasing \$1545.56
7. VISA \$485.55

Mark Siderius motioned “to approve the bills as presented.” Verdell Jackson seconded. Motion carried unanimously.

PUBLIC COMMENT PERIOD

Laura Katzman stated she had been kayaking Whitefish River and saw an area that had been recently excavated. She submitted a complaint at the meeting and Ronald Buentemeier explained the complaint process to her. The complaint will be on the 9/10/18 meeting agenda.



310

Averill, FL2018032C, Viking Creek tributary, complaint: An onsite inspection was scheduled for Wednesday, August 15, 8:30 A.M. at the lodge.

Boyd, FL2018040C, Nine Mile Creek, complaint: Ronald Buentemeier stated this is the same site where a complaint was previously filed and the board decided it was not a violation. Ronald Buentemeier motioned “to send the landowner the standard complaint letter and inform him an onsite inspection will be scheduled at the September board meeting.” Mark Siderius seconded. Motion carried unanimously.

Boyd, FL2018041C, Nine Mile Creek, complaint: Ronald Buentemeier stated this is the same site where a complaint was previously filed and the board decided it was not a violation. Ronald Buentemeier motioned “to send the landowner the standard complaint letter and inform him an onsite inspection will be scheduled at the September board meeting.” Mark Siderius seconded. Motion carried unanimously.

The complainants reported that they have lived on Bailey Lake for 27 years and Nine Mile Creek flows into Bailey Lake. A neighbor asked them look at the creek and the site of the complaint. They had already had concerns about the creek because it used to flow year-around, but it no longer does, nor does it have fish like it used to. In addition, water levels in Bailey Lake are lower than they used to be, and the lake now gets algal blooms. They walked the creek from Bailey Lake to Duck Lake. They noticed many human activities, including a diversion to an excavated pond, two active pump sites, dams, fords, and an old pump house overhanging the creek. At the complaint location, they saw wood boards and timbers placed across the creek – not by beaver- but water can still run through. Kenny Breidinger suggested that the watershed changes occurring in the area may be geological. Ronald asked the complainant when the dam washed out the first time. The complainants did not know, however, a major rain event occurred in 2016, and it flushed the area out and moved docks all over on the lakes. Soon after, they noticed that less water seemed to go into Bailey Lake from Nine Mile Creek. They believe a lot of factors are contributing to the lower water quality and quantity in Bailey Lake and the lower flows in Nine Mile Creek.

Mr. Pfeifer, an adjacent landowner, added that the dam was breached in the 2016 flood event. The water was 3 feet higher than the dam, and the flood also washed out the road, as well as fire wood piles. The flow of water from Spoon Lake to Duck Lake has declined since then, too.

Ronald explained the differences between water rights and the conservation district’s 310 jurisdiction. Ronald stated they could file a complaint with the district for any of the possible 310 violations they observed. Supervisors referred them to the county Plat Room and the county GIS website for landownership information, and to the DNRC Water Rights office for water rights information. Ronald noted they could begin a dialog about the stream with their home owners association.

Brosten, FL2018015, Flathead River, fill/bank stabilization: Mark Siderius motioned “to approve the application with modifications.” Lori Curtis seconded. Motion carried unanimously.



Brosten, FL2018035E, Flathead River, emergency: Ronald Buentemeier thought a second onsite inspection needed to be done with two supervisors. John Ellis will contact Pete Woll to do the second onsite, and he will inform the office of the date and time. Kenny Breidinger, FWP, waived a second onsite inspection as the first onsite was held 7/17/2018.

Davis, FL2018029C, East Spring Creek, complaint: An onsite inspection was scheduled for Friday, August 17, 9:40 A.M. at the site.

Dean Sirucek reported that the landowner's response to the complaint letter stated that he had submitted an application to the district; however, office staff did not find it listed in the database or in the files. Mr. Davis said he had submitted an application to the district and provided a copy of a partially completed and signed application dated 10/6/15. He also showed copies of business cards from supervisors that he said had visited the site. His surveyor, Olaf Erickson, stated he could send a copy of the survey to the district office showing the landowner is about 25 feet back from the high water mark. District staff will review the database and past minutes again.

Flathead National Forest, FL2018037, Haskill Creek tributary, bridge: An onsite inspection was scheduled for Wednesday, August 15, 9:45 A.M. at base lodge.

Ronald Buentemeier asked Chester Powell for verification from Flathead National Forest (FNF) approving the work on federal land. Chester Powell stated he had talked to the Forest Service and was informed that he should obtain a 310 permit. The application was signed by a representative from FNF. Chester will contact FNF for further written verification.

Garner, FL2018042, Krause Creek, culvert: Valerie Kurth stated she and Pete Woll had done a pre-onsite, so he did not want to do another site visit. However, Leo Rosenthal, FWP, and the landowner are available to do an onsite inspection this week. An onsite inspection was scheduled for Thursday, August 16, 10:00 A.M. at the site.

Hammett, FL2018028, Evers Creek, road construction/culvert: Verdell Jackson stated the application is for reconstruction of a logging road with four culvert sites. Verdell showed photos and reviewed each site. An amendment was submitted 7/26/2018 for site 4 since the original culvert design was cost prohibitive. At site 4, the existing 36"x16' culvert will be removed and they will install a 5' equivalent squash pipe, 34' long. A spillover area with a rock apron at both the inlet and outlet areas will be built, and the road will be rocked through the spillover. Kenny Breidinger stated this is a vast improvement over the current pipe at site 4 as the 36' pipe was causing ponding and water would flow over the road.

Verdell Jackson motioned "to approve the application with modifications submitted 7/26/18." Lori Curtis seconded. Motion carried unanimously.



Hein, FL2018039, Flathead River North Fork, bank stabilization: Ronald Buentemeier stated the landowner is proposing to replace previously permitted rip rap which has since eroded. An onsite inspection was scheduled for Friday, August 17, 1:30 P.M. at the site.

Juno, FL2018034C, Walker Creek, complaint: An onsite inspection was scheduled for Wednesday, August 15, 3:15 P.M. at the site.

Juno, FL2018038, Walker Creek, culvert/bank stabilization/road construction: An onsite inspection was scheduled for Wednesday, August 15, 3:15 P.M. at the site.

Launching Eagle, FL2018031, Swan River, boat slip canopies: Valerie Kurth stated the application is to enclose the boat slips which were previously permitted. Dean Sirucek motioned "to approve the application as submitted." Lori Curtis seconded. Motion carried unanimously.

Dean Sirucek motioned "to waive the 15-day waiting period after receiving the Team Member Report." Lori Curtis seconded. Motion carried unanimously.

Motley, FL2018022, Mill Creek, culvert: Mark Siderius motioned "to table waiting for further information." John Ellis seconded. Motion carried unanimously.

Pfeifer Trust, FL2018033, Nine Mile Creek, deck: Ronald Buentemeier explained the project is on the east side of Nine Mile Creek at the Duck Lake outlet. The landowners want to expand the deck on the front of the cabin; however, the deck is far enough away from the stream that it is not under our jurisdiction. The landowners' asked how **they** can determine what is in the jurisdiction of the Flathead CD. Mark Siderius explained the easiest thing to do is to simply submit an application, then the **board** will make the determination after the onsite inspection.

Ronald Buentemeier motioned "this is not a project under our jurisdiction." Dean Sirucek seconded. Motion carried unanimously.

Randolph, FL2018036, Whale Creek, removed fallen tree: An onsite inspection was scheduled for Tuesday, August 21, 10:00 A.M. at the site.

Rehbein, FL2018027, Unnamed, fill/culverts: Mark Siderius stated the project is for a road crossing through an Army Corps of Engineers (ACOE) delineated wetland. Due to highway reconstruction, the area no longer receives water and the brush is currently approximately 8 feet tall. The landowner does have an ACOE 404-permit.

Mark Siderius motioned "this is not a project under our jurisdiction." Dean Sirucek seconded. Motion carried unanimously.

Smith, FL2017062, Flathead River, driveway: Mark Siderius stated the applicant has been non-responsive for months. Mark Siderius motioned "to withdraw the application and send the applicant a letter stating they are welcome to re-apply if they want to continue the project." Lori Curtis seconded. Motion carried unanimously.



Stalow, FL2016050, Bear Creek, permit extension request: Ronald Buentemeier stated Stalow called him in early July and said the water was higher than it had ever been before and he could not do work on the boardwalk or install other items listed in the permit. On 7/18/2018 the district office received a request for a permit extension to 12/31/2018 from Mr. Stalow. Ronald noted this is past the 2 year time period; however, work needs to be completed. Valerie Kurth noted that she had contact both Donald MacIntyre and Caitlin Overland, Flathead County Attorney's office. Caitlin reviewed the request and was favorable to granting the extension. Leo Rosenthal, FWP, was unable to attend the meeting, but sent an email stating he was ok with the extension. John Ellis asked if Stalow has appealed the court decision. Valerie stated she had not heard anything

Ronald Buentemeier motioned "to approve the request for a permit extension to 12/31/2018." Verdell Jackson seconded. Motion carried unanimously.

Welder/NW Energy, FL2018043, Unnamed, utilities: Dean Sirucek stated NW Energy is proposing to bore 3 feet below the stream with a 50-foot setback. Dean contacted NW Energy and informed them that, based upon the district's Adopted Rules, it would not be a project if they bore 5 feet below the stream. The applicant was supposed to email a modification to bore 5 feet deep instead of 3.

Dean Sirucek motioned "this is not a project under our jurisdiction based upon the 8/13/18 amendment to the application stating that the bore hole depth is below five feet." Lori Curtis seconded. Motion carried unanimously.

During a brief break in the meeting, office staff received the email from NW Energy.

Westwood Park LLC, FL2018030C, Bowser Spring Creek, complaint: Verdell Jackson stated a complaint was received for a trail and material placed close to stream. The landowner stated he had contacted the City of Kalispell regarding permitting, but was unaware of the 310-permit. An onsite inspection was scheduled for Wednesday, August 29, 9:10 A.M. at the site.

NEW BUSINESS

Education Grant Modification: Valerie Kurth explained Erica Gerber attended the last meeting and teaches a river ecology class at Summit Preparatory School. Her students do water sampling on Ashley Creek and share their data with organizations such as Whitefish Lake Institute and DEQ. Since receiving the grant from Flathead CD, Erica unexpectedly received another grant for \$1000 for many of the same supplies, so she contacted Valerie about the possibility of doing a modification. Erica Gerber stated they have also done testing on Flathead River but the majority is on Ashley Lake. She explained that there are other items the school still needs for their research and data collection, including petrifilm coliform plates, stream ecology kits, and data loggers. The revised request is for \$1533.15.



Lori Curtis motioned “to approve the revised request for Summit Preparatory School in the amount of \$1533.15 for items specified.” Mark Siderius seconded. Motion carried unanimously.

Dean Sirucek asked Erica if she would attend the Flathead Basin Commission meeting on October 10, at which they will be discussing the monitoring plan for the basin with DEQ. The data and research Summit has done would be helpful as Ashley Creek is one area they need further information on. Erica stated she and the students would enjoy presenting.

Adopted Rules Updates:

Ronald Buentemeier explained the process for reviewing and adopting changes to adopted rules. Lori Curtis noted the importance of making the Adopted Rules (AR's) as clear as possible for all involved with the 310 process. She also asked if DNRC is still updating the binder *Montana Stream Permitting a Guide to CD Supervisors and Others*, and noted that it is a valuable resource. Valerie Kurth will contact Bob Flesher, DNRC.

General comments, draft proposed changes, and recommended updates to the Adopted Rules (AR's) were discussed as follows:

General Comments

1. **Get copies of Adopted Rules from all other districts west of the divide. (RB)**

Hailey Graf explained that she had contacted a number of CD's for copies of their AR's and found that their adopted rules mirrored Flathead's, some verbatim.

2. **Before adopting or considering any changes, see how they comply with DNRC “Guide to Stream Permitting in Montana.” (RB)**
3. **Can linseed oil be used around water? (RB)**

Valerie Kurth will look into this.

4. **Add a section in Project Standards on fords. The findings and standards would focus on physical characteristics of sites where fords are and are not appropriate. (KB)**

Kenny Breidinger suggested we add standards for fords. They are not commonly done, but sometimes are a good option for both the stream and the landowner. Kenny stated he would be willing to draft wording.

5. **Add guidance or explanation of when it is or is not appropriate to permit projects prohibited by the Adopted Rules. (KB)**
6. **Add a statement about projects permitted under previous versions of the adopted rules are not precedent-setting. (KB)**

Kenny Breidinger voiced concern of permitting projects that could be considered prohibited. The board and Kenny discussed the possibility of adding some standards for when we deviate from the rules. Hailey suggested that deviations and justifications may also be documented in the meeting minutes. Lori Curtis agreed with others, but stated that our job is to protect the streams and issue permits accordingly. If we consistently make exceptions, then we may not be fulfilling our duty. Lori Kenny stated that the AR's are largely set up to provide flexibility and not be prohibitive, but he struggles when the rules prohibit activities that we permit.



Definitions, Page 7

23. "Immediate banks" means the area above the mean high water mark and directly adjacent to the stream, which when physically altered or modified has the potential to affect the state of a stream.

The top of the immediate stream bank is delineated by a distinct break in slope.

(KB)

Define with a definite measurement. (RB)

Insert an illustration of a stream cross section that identifies the top of the stream bank. One side should include a bank full bench. (KB)

Ronald Buentemeier stated he and Kenny Breidinger seem to have differing opinions on this. He suggested we compare our rules to the Lakeshore regulations or to the definitions used by other districts. He said he has always used the area where no vegetation is growing on the edge of the stream to start measuring the mean high water mark, and this is what we used in the forestry practices. Lori Curtis stated that we should have a very clear definition so that both applicants and team members are not confused about jurisdiction. Dean Sirucek stated with some stream types and how the flow is, it is not always possible to see the break in vegetation, but this is uncommon. The high water mark goes back to what we call bank full, which is what happens during high water every year. Ronald Buentemeier and Mark Siderius did not agree with using bank full. Kenny expanded on Dean's comments in saying that, for example, Nine Mile Creek is different than many other creeks. The creek had what he considered bank full or what the district would call mean high water, but it also had a large bench that extended about 30 feet. It was flat and what he would consider a bank full bench. The bank sloped up after the bench, and he said it was hard to determine our jurisdiction because 20 feet from high water would include the bench that probably flooded every year. Kenny read the definition of immediate streambank and stated he just wasn't sure about jurisdiction. Mark Siderius explained how the district came to the definition. The line where the vegetation ends is the same definition Fish, Wildlife & Parks uses to enforce the stream access law. We have a large diversity of streams and rivers in this county, so it will be challenging to agree on a definition that fits both large rivers and small streams. Kenny stated he is ok with the mean high water mark definition, but the definition of the immediate banks is vague. Ronald stated that is why I wanted staff to check with other CDs - because we need some ideas on how to move forward.

Hailey Graf reported she contacted 16 conservation districts located west of the divide, as well as Laurie Zeller at DNRC. They use the same definitions we do, and DNRC recommends these definitions for the whole state. "Immediate banks" is intentionally worded to provide discretionary power to the board and the team. This means the team can make a decision on site for each project, taking into account the unique characteristics of the stream. The intentional, vague wording empowers districts to be flexible in their decisions. John Ellis asked why we do not have a quantitative measurement. Mark explained that streams and rivers are variable; in some places, it could be 300 feet up the slope to the top of the bank, but only 50 horizontal feet from the stream. Lori added that it is too confining to have a set distance. Hailey added that Laurie told her it would not be in our interest to set a definitive measurement, nor does the law grant us the authority to set a distance. We cannot make this a zoning law.



Mark Siderius stated Army Corps of Engineers simply looks at what the vegetation type is on the ground, and the plant community determines their jurisdiction. They take jurisdiction when the community is reed canary grass or willows, but not orchard or quack grass or evergreen trees. Agencies often have their own system to determine jurisdiction. The board continued to discuss the definition of "immediate banks" and the difficulty of assigning a quantitative value. Mark did think we would find one solution. Kenny suggested that we try to make sure we are all at the same understanding about the top of the bank when we do onsite inspections. Dean suggested adding some diagrams, and John asked Kenny to propose a new definition. Kenny said he had tried to by adding the statement about the break in slope.

At the bottom of Page 7

Should there be a definition for "landscaping"? Reference in Ch. 3, A, 2, a
This was not discussed.

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30. "Mean high water mark" means the line that water impresses on the land for sufficient periods to cause physical characteristics that distinguish the area below the line from above it. Characteristics of the area below the line include, when appropriate, deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural value.
Define where on the ground this measurement begins. How far back from mean high water mark does jurisdiction go? (RB)

31. "Natural perennial-flowing stream" means a stream, which in the absence of diversion, impoundment, appropriation, or extreme drought, flows continuously at all seasons of the year and during dry as well as wet years.
Due to geologic material types found in some places in the Flathead Basin, a perennial stream may have some segments when the stream flow is below the ground surface (intermittent stream). (DS)

Ronald Buentemeier stated that in the Flathead there are streams that flow both above and below ground and the board determined they were a perennial flowing stream. Dean Sirucek noted there are perennial flowing streams that have intermittent sections. A classic case in the Flathead Basin is Trail Creek. It has areas that appear to dry up part of the year, but it goes underground. The board agreed this was a good addition.

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39. "Riprap" means a layer, facing, or protective mound of stones, or rock or other materials placed to prevent erosion, scour, or sloughing of a structure or embankment.

Note: should riprap be specified as a type of retaining wall? Or are both retaining walls and riprap forms of bank stabilization? See Ch. 3, A, 1a and 2d. on page 36

Ronald Buentemeier stated his view is that riprap is not a structure and retaining walls do pertain to a structure. Dean Sirucek added engineered structure.



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4. Formation of a Team

- c. ii. A Team Member Report must be submitted to the district office before a 310 permit ~~letter~~ is mailed to the applicant.

This is a minor correction

Page 16. DECISION

4. The supervisors may ~~modify condition approval of~~ a project that has several phases to provide that a team inspection be made for each phase and the Team Member Report be updated for each phase.

Lori Curtis stated to condition approval is different than to modify approval; modify is the wrong word. This is a minor correction.

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1. Rule 12. 1 Projects must be designed and constructed using methods that minimize:

- a. adverse impacts, both upstream and downstream;
- b. future disturbance to the stream;
- ~~while~~
c. ~~maintaining the functional integrity of the streambanks.~~ (DS)

Dean Sirucek stated his thought was the excavation of streambanks. The board agreed the word *while* should be removed, then add c. and maintaining the functional integrity of the streambank.

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12. All projects shall be designed in a manner as to not significantly degrade the adjoining riparian area's functional integrity (e.g. sediment filtering, streambank building, storing water, aquifer recharge, providing fish and wildlife habitat, and dissipating stream energy). (DS)

Dean Sirucek read 75-7-102 MCA Intent—policy.

(2). It is the policy of the state of Montana that its natural rivers and streambanks and the lands and property that is immediately adjacent to them within the state are to be protected and preserved to be available in their natural or existing state and to prohibit unauthorized projects and, in so doing, to keep soil erosion and sedimentation to a minimum, except as may be necessary and appropriate after due consideration of all factor involved.

Dean stated it talks about riparian areas - the adjacent lands to the streams. He continued to read from the code. 75-7-103 MCA Definitions

(6) "Stream" means any natural, perennial-flowing stream or river, its bed, and its immediate banks except a stream or river that has been designated by district rule as not having significant aquatic and riparian attributes in need of protection or preservation under 75-7-102.



Dean stated that words he is proposing to add are verbatim from page 2 of the *University of Montana Forestry Conservational School of Forestry Riparian Classification and Management of Montana Riparian and Wetland Sites*.

Dean stated because of how the law is written, he thinks we need to include something in our rules to discuss how projects may impact riparian areas. Lori Curtis agreed with Dean. Mark Siderius also agreed, but reminded everyone to remember that there many areas where this would not fit, such as Bigfork Bay. Nearly every project in that area includes a retaining wall with fill behind it, and this removes the riparian area. Many commercial developments along the river near the lake will have a similar circumstance. Hailey Graf stated the language as written is pretty explicit: this *shall* be done. However, if you look at the AR's, such as #11, they state that the district will *encourage*. What if the language is changed slightly to allow room for those projects, such as *encourage or may*. Mark stated if you look through the AR's the word *shall* is not used, it is *may* most of the time. If it is should, it is a definitive and not flexible situation. John Ellis suggested changing *shall* to *should* and *as to not* to *which does not* or *which protects*. Kenny Breidinger noted that Dean's suggestion does not include the word prohibited. Dean said that he just wanted something in there to provoke discussion.

Lori Curtis asked if the rest of the board would like to continue the discussion of the AR's at the next 310 meeting.

John Ellis motioned "to continue discussion of the modification of the Adopted Rules at the September 310-meeting." Lori Curtis seconded. Motion carried unanimously.

Cow Creek Grant #218013 (Contract): Valerie Kurth reported the Cow Creek grant agreement was received two weeks ago, and needed to be signed and submitted to DNRC so we could begin billing match. A phone poll was done and the agreement was signed 8/3/2018. Mark Siderius motioned "to approve the phone poll to sign the Cow Creek Grant agreement." Lori Curtis seconded. Motion carried unanimously.



MATTERS OF THE BOARD/STAFF

Teepee Creek: Ronald Buentemeier stated he had received a phone call from a landowner on Teepee Creek wanting to replace deteriorated planking on a railroad car bridge. The bridge is not currently useable. Ronald informed the landowner that re-decking does not require a 310-permit.

Area V Meeting: Hosted by North Powell CD, Tuesday, September 25, at the Helmville Community Center. Flathead CD Supervisors were asked to let staff know if they will be attending.

Fair Schedule: Hailey Graf asked supervisors to sign up to help in the booth if they have not already done so, and noted she has day passes and a parking pass if needed.

Total 310 Information: Ginger Kauffman compiled a list totaling **3558** 310's (applications/complaints/emergencies) from **1976-2017** for Flathead CD. 12 Arbitrations/Litigations were included in the total.

The next business meeting is scheduled for Monday, August 27, 2018, 7:00 P.M. in the conference room of the USDA building at 133 Interstate Lane, Kalispell.

Adjournment: Lori Curtis motioned "to adjourn." John Ellis seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 10:10 P.M.

Submitted By:

Ginger Kauffman
Administrator

Valerie Kurth, Ph.D.
Resource Conservationist

Minutes approved by FCD Board motion made on:

<u>8/27/2018</u>	<u>Pete Woll</u>	<u>Vice-Chair</u>
(Date)	(Signature)	(Title - Chair etc.)

